

TOM DAVIS, VIRGINIA,
CHAIRMAN

DAN BURTON, INDIANA
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
JOHN L. MICA, FLORIDA
MARK E. SOUDER, INDIANA
STEVEN C. LATOURETTE, OHIO
DOUG OSE, CALIFORNIA
RON LEWIS, KENTUCKY
JO ANN DAVIS, VIRGINIA
TODD RUSSELL PLATT, PENNSYLVANIA
CHRIS CANNON, UTAH
ADAM H. PUTNAM, FLORIDA
EDWARD L. SCHROCK, VIRGINIA
JOHN J. DUNCAN, JR., TENNESSEE
JOHN SULLIVAN, OKLAHOMA
NATHAN DEAL, GEORGIA
CANDICE MILLER, MICHIGAN
TIM MURPHY, PENNSYLVANIA
MICHAEL R. TURNER, OHIO
JOHN R. CARTER, TEXAS
WILLIAM J. JANKLOW, SOUTH DAKOTA
MARSHA BLACKBURN, TENNESSEE

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051
TTY (202) 225-6852

www.house.gov/reform

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
CAROLYN B. MALONEY, NEW YORK
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS
CHRIS VAN HOLLEN, MARYLAND
LINDA T. SANCHEZ, CALIFORNIA
C.A. DUTCH RUPPERSBERGER,
MARYLAND
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
JIM COOPER, TENNESSEE
CHRIS BELL, TEXAS

BERNARD SANDERS, VERMONT,
INDEPENDENT

December 10, 2003

The Honorable Tommy G. Thompson
Secretary of Health and Human Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Mr. Secretary:

Thank you for the opportunity to review the November 25 draft of the proposal by the Department of Health and Human Services (HHS) to reform the Commissioned Corps of the U.S. Public Health Service. We appreciate that HHS has made several changes to the initial plan that address concerns raised during the Government Reform Committee hearing of October 30, 2003. We are writing to seek additional clarification of three issues.

1. Physical fitness standards

At the hearing, Surgeon General Carmona responded to questions about whether the proposal would force experienced officers out of public service because they cannot do pushups or other strenuous physical activity. He testified that Corps officers at the basic level of deployment readiness (one of three tiers of readiness) would not have to pass tests of physical fitness. He said:

[O]nly if you're going to be in the upper tiers, the advance tier, where you'd have some more stringent physical requirements, would you be doing anything like pushups or timed runs. So the entry level or basic level really is for any one of our officers. Basically it consists of a current physical exam on file that you're healthy, you've got your vaccinations up to date, you've got your basic CPR card on file, and the online modules of education that will bring you up to speed, so to speak, on emergency deployments and how our system works.

He also testified that the idea that all Corps officers would have to do pushups was a "misconception."

In the November 25 draft, however, applicable standards for the basic level of deployment readiness include "pass the Corps Annual Physical Fitness Test" (effective

October 1, 2004).¹ As defined in the November 25 draft, this test includes standards for a 1.5-mile run, a 500-yard swim, pushups, and situps.²

HHS staff has communicated with Committee staff that the intent of HHS is not to require physical fitness standards for officers at the basic level of deployment readiness. We ask that you clarify this discrepancy or modify the proposal accordingly.

2. Authority of the Surgeon General

At the hearing, Surgeon General Carmona testified about the division of responsibility between the Surgeon General and the Assistant Secretary for Health (ASH) under the proposal. He explained that the ASH would oversee the policy for the Commissioned Corps, and that the Surgeon General would be responsible for “day to day” operations. He said:

The operation will be delegated to the Surgeon General for all functions of the Corps. That would include recruitment and that would include personnel functions.

In the November 25 draft, however, the ASH is given authority over promotions, a key personnel function.³ This aspect of the plan appears to contradict the Surgeon General’s testimony. Please explain the division of authority between the Surgeon General and the ASH. Please also clarify if the Surgeon General will have authority over all personnel matters or provide a justification for an alternate division of authority.

3. Response of Agency Directors and CDC Personnel

Over the summer, Food and Drug Administration Commissioner Dr. Mark McClellan, National Institutes of Health Director Dr. Elias Zerhouni, and officials at the Centers for Disease Control and Prevention expressed serious concerns about the initial HHS plan to reform the Commissioned Corps. Some of these concerns related to the possibility that commissioned officers would be asked to deploy in areas that are not relevant to their expertise and agency function.

¹Department of Health and Human Services, *Standards for the Basic Level of Deployment Readiness* (Draft) (Nov. 25, 2003).

²Department of Health and Human Services, *PHS Commissioned Corps Annual Physical Fitness Test* (Draft)(Nov. 25, 2003).

³See, e.g., Department of Health and Human Services, *Instruction 2 — Temporary Grade Promotions* (Draft), 9 (Nov. 25, 2003) (“At the close of each promotion year, the ASH . . . will issue personnel orders that effect the promotions of those officers that will be promoted.”)

At the hearing, Surgeon General Carmona testified that HHS would not deploy experienced officers outside of their expertise. He said:

To be clear, sending officers such as bench scientists, FDA regulatory specialists or epidemiologist from CDC to achieve mission objectives that are not consistent with their specific training and physical capabilities makes no sense. The transformation contemplates no such thing.

The November 25 draft, however, does not appear to provide assurance to commissioned officers that inappropriate deployments would not occur. Please clarify that all deployments will be consistent with specific training and physical capabilities. Please also explain what steps HHS has taken to seek the input of agency directors and CDC officials. Please provide any correspondence from these individuals about the November 25 draft proposal.

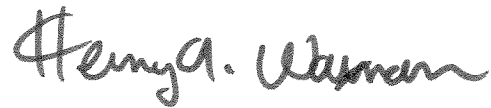
At the October 30, 2003, hearing, there was bipartisan support for your interest in transforming the Commissioned Corps to better serve the American people. We believe that the Commissioned Corps can be better equipped to protect, promote, and advance our nation's health. We appreciate the changes you have already made to your initial proposal, and we anticipate that additional modifications will make the final plan one that can obtain broad support.

Thank you again for your consideration of our views. We would appreciate a reply to this letter by December 16, 2003.

Sincerely,



Tom Davis
Chairman



Henry A. Waxman
Ranking Minority Member